THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL NO. 992 OF 2007

Dated 6th December, 2007

Between:
The Government of A.P.
And two others …Appellants

And

R.Krishna Mohan and another …Respondents

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J U D G M E N T (Per Hon'ble Sri Bilal Nazki, the Acting Chief Justice):

Heard learned counsel for the parties and with their consent, the writ appeal is being disposed of at this stage.

This writ appeal is filed by respondents 1 to 3 in Writ Petition No.9091 of 2007 against order dated 10-08-2007 passed by the learned Single Judge in the said writ petition, whereby the learned Single Judge allowed the writ petition.

The grievance of the writ petitioner was that he was removed from contest in a tender process on the ground that he was not technically qualified. The technical qualifications given in the tender notice have been mentioned by the learned Single Judge in his order and the learned Single Judge came to the conclusion that-

> "If one goes by the terms used in Clause 1.3, it becomes evident that the requirement is about satisfactory completion of 'similar works'. In the context of improvement and renovation of tank bunds, the similarity would be as to the earthwork in relation to irrigation projects. It does not involve any meticulous mechanical process or expertise of very high degree. The petitioner had produced several certificates disclosing his experience in works of similar nature. Though the first was in relation to the

formation of link road, it was in relation to an irrigation project involving earthwork."

According to the learned Single Judge although the writ petitioner had no technical qualifications as specified in the tender notice, but he had some experience as such he could not be thrown out of the contest. Another objection raised by the Department for not considering the tender of the writ petitioner was that certification of a particular certificate, by way of counter signature by the Superintending Engineer, was not done. By this objection also the learned Single Judge was not convinced that the writ petitioner could not be considered.

We are of the view that as far as technical qualifications are concerned, they are better left to the technical experts. In the absence of any other opinion by any technical expert, we may not be in a position to see whether the decision taken on technical grounds by the Department was correct or not.

In this view of the matter, we think that this writ appeal can be disposed of by modifying the order of the learned Single Judge to the following effect-

That the writ petitioner shall make a representation to the appellants/respondents by 11-12-2007, who may consider it and give the writ petitioner a hearing within a week and pass appropriate orders. If the appellants find the writ petitioner qualified, they may consider his tender. If they find the writ petitioner not qualified, they shall be at liberty to consider another tenderer and finalize the work.

The writ appeal is accordingly disposed of. No order as to costs.

Bilal Nazki, ACJ

Dated 6th December, 2007

Ramesh Ranganathan,J

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